

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.915a Licensee; additional prohibited acts.

Sec. 915a. A licensee shall not commit any of the following acts:

- (a) Listing the name of an attorney in a written or oral communication, collection letter, or publication.
- (b) Furnishing legal advice, or otherwise engaging in the practice of law, or representing that the person is competent to do so, or to institute a judicial proceeding on behalf of another.
- (c) Sharing quarters or office space, or having a common waiting room with a practicing attorney or a lender.
- (d) Employing or retaining an attorney to collect a claim. A licensee may exercise authority on behalf of a creditor to employ the service of an attorney if the creditor has specifically authorized the collection agency in writing to do so and the licensee's course of conduct is at all times consistent with a true relationship of attorney and client between the attorney and the creditor. After referral to an attorney, the creditor shall be the client of the attorney, and the licensee shall not represent the client in court. The licensee may act as an agent of the creditor in dealing with the attorney only if the creditor has specifically authorized the licensee to do so in writing.
- (e) Demanding or obtaining a share of the compensation for service performed by an attorney in collecting a claim or demand or collecting or receiving a fee or other compensation from a consumer for collecting a claim, other than a claim owing the creditor pursuant to the provisions of the original agreement between the creditor and debtor.
- (f) Soliciting, purchasing, or receiving an assignment of a claim for the sole purpose of instituting an action on the claim in a court.
- (g) Advertising or threatening to advertise for sale a claim as a means of forcing payment of the claim, unless the collection agency is acting as the assignee for the benefit of creditors or acting under an order of a court.
- (h) Failing to deposit money collected into the trust account required to be maintained under this article.
- (i) Commingling money collected for a client with the collection agency's own general or operating funds.
- (j) Using a part of a client's money in the conduct of a collection agency's business.
- (k) Refusing or intentionally failing to remit to a client all money collected, due, and owing the client less any commission owed to the licensee within 45 days after the day on which the money was collected.
- (l) Failing to give a debtor a written receipt for cash payment, or other payment when specifically requested, showing the amount of money received and the debt to which it was applied and the name of the specific account receiving the money.
- (m) Refusing or intentionally failing to return to a creditor all original documents deposited with the claim when the claim is returned, if requested. When requested by the creditor, there shall be a signed agreement between the agency and the creditor if any closing out fee is charged to the creditor for unpaid claims returned or collection activities discontinued.
- (n) Identifying the collection agency other than by the name appearing on the license.
- (o) Permitting an employee to use a name other than the employee's own name or the assumed name registered by the licensee with the department in the collection of a debt.
- (p) Operating under a name or in a manner that implies or states that the collection agency is a branch of, or associated with, or has been approved or licensed by, a department of federal, state, or local government, or that implies that the collection agency is a credit reporting agency regularly furnishing a credit report about consumers unless it is a credit reporting agency.
- (q) Accepting a check or other payment instrument postdated by more than 5 days unless the debtor is notified in writing of the person's intent to deposit a postdated check or instrument not more than 10 nor less than 3 business days before the deposit.
- (r) Depositing or threatening to deposit a postdated check or other postdated payment instrument before the date on the postdated check or instrument.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1981, Act 83, Imd. Eff. July 1, 1981;—Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

Popular name: Act 299